

DEPARTMENT OF THE ARMY
UNITED STATES ARMY DENTAL ACTIVITY
Fort Huachuca, Arizona 85613-7040

DENTAC Pam
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Medical Services
RISK MANAGEMENT

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1. HISTORY. This is a revision of an existing publication.

2. PURPOSE.

a. To establish policy and set forth procedures for the early identification and investigation of incidents occurring in USADENTAC treatment facilities, which could reasonably be expected to result in a claim against the United States.

b. To minimize the number of potentially compensable unusual occurrences by enhancing patient safety and reducing patient misadventures.

3. SCOPE. Applicable to all subordinate elements and personnel under the operational control of USADENTAC, Fort Huachuca, Arizona.

4. REFERENCES.

a. AR 27-20, Claims.

b. AR 40-66, Medical Record Administration.

- c. AR 40-68, Quality Assurance Administration.
- d. AR 340-21, The Army Privacy Program.
- e. AR 25-400-2, The Modern Army Recordkeeping System.
- f. Accreditation Manual for Hospitals, JCAHO.

5. RESPONSIBILITIES.

- a. Attorney point of contact (POC): The Staff Judge Advocate POC will provide legal counsel and advice to the DENTAC

Risk Manager as requested. Upon receipt of notification of an unusual occurrence or potentially compensable event, the attorney POC will be responsible for providing a recommendation as to the appropriateness of an investigation, type of investigation, advice to the Risk Manager during the course of investigation, and a comprehensive review of that investigation. The attorney POC will also be appointed as legal advisor to the Risk Management Committee. The attorney POC should be present during all meetings between DENTAC personnel and the potential claimant or his representative.

- b. The Risk Manager will serve as the DENTAC POC for all unusual occurrences or potentially compensable events within the dental treatment facility. The Risk Manager will also be responsible for the gathering of all information relevant to a particular incident that falls within the purview of the Risk Management Program. He will also ensure that all personnel assigned to DENTAC understand the nature and purpose of the DENTAC Risk Management Program.

- c. The Risk Manager will compile dental records on risk management cases for review, arranging the agenda for meetings, obtaining necessary records, maintaining files on identified incidents, forwarding investigation reports to the Quality Improvement Committee, and assisting the Judge Advocate POC with any required staff liaison.

- d. Team leaders will act as risk managers in his/her area of responsibility. He/she will assure that all unusual incidents occurring in his/her area is reported promptly to the DENTAC Risk Manager or, in the event of his/her absence, the Associate Risk Manager. He/she will also serve as action persons for follow-up activities to correct or prevent problems that can lead to occurrence of similar or related incidents.

6. POLICY.

- a. It is Department of the Army policy that unusual occurrences having the potential for generating a compensable claim against the Government is immediately and thoroughly investigated.

b. Review of complex, serious dental malpractice claims and evaluation of these potentially compensable situations requires the assistance of an experienced attorney. This attorney must also assist in the claims investigation and process any claim that may result in an unusual occurrence or a potentially compensable event.

c. Early identification and prevention are important aspects of a Risk Management Program. Problem recognition and identification result from the constant monitoring of all activities of the DENTAC and prevention of future problems results from investigation and profiling of incidents as they occur. Current trends recognize the need for a formal integrated and continuous risk management that monitors all activities of the dental clinic. To this end, all dental personnel should actively participate in the identification and prevention of incidents that may adversely affect a patient, DENTAC employee, or other individual at the DENTAC.

d. In accordance with AR 40-68, the DENTAC Risk Management Program is a program designed to enhance patient safety by reducing patient misadventures, and to reduce financial loss to the United States. This is accomplished through early identification of events or incidents involving potential claims against the Government in addition to initiating a system to assist in preventing future similar events.

7. PROCEDURES.

a. The DENTAC Risk Manager, upon receiving notice of an incident, unusual occurrence or potentially compensable event, will cause a Report of Unusual Occurrence (DA Form 4106) to be prepared. The DENTAC Risk Manager should then effect timely contact with the attorney/advisor to determine the extent of the investigation required. The date and time of this contact will be annotated and verified by the signature of the Risk Manager on the reverse of Report of Unusual Occurrence (DA Form 4106). The Risk Manager will also report immediately (the same day or within hours) all incidents that may be a PCE that could result in patient injury and/or legal claim to the DENTAC commander in order to inform him of untoward occurrences and potential liability.

b. All claims made against the Army, whether Feres-barred or not, must be investigated prior to submission to U.S. Army Claims Service. To immediately investigate only the potentially meritorious claims ignores this fact. A later investigation, while probably requiring less depth, will nevertheless be required on Feres-barred claims.

c. In the event either the DENTAC Risk Manager or the Judge Advocate POC, or both, determine that the incident is likely to give rise to a claim against the United States, an investigation utilizing Report of Claims Officer (DA Form 1208) or Investigating Officer under the provisions of AR 15-6. This action will be conducted as a combined effort of the DENTAC Risk Manager and the Judge Advocate POC with the approval of the commander. The Risk Manager or other personnel designated by the DENTAC commander will perform the actual investigation (information gathering). The attorney POC will provide assistance as necessary. That investigation will be conducted in accordance with chapter 2, AR 27-20, and must include, but is not limited to:

(1) Identifying all personnel having knowledge of the incident, or who could reasonably be expected to have knowledge based upon their whereabouts or duty position at the time of the incident. Medical records (lab slips, dental notes, etc.), duty rosters, logbooks, or assignment instructions may be sources of that identification. Identification of all persons having knowledge of or are involved in the treatment of the potential claimant must include military rank (or civilian grade), full name, social security number, duty position, unit of assignment, complete mailing address, and date the individual is anticipated to depart the command. If an individual identified is no longer available in the command, a complete forwarding address and date of departure is necessary, in addition to required information.

(2) Obtaining sworn statements from all persons involved in or having knowledge of the treatment of the potential claimant. These statements should not be limited only to dental personnel, administrative personnel may be involved as well.

(3) Obtaining true, legible copies of all medical and dental records and reports relevant to the incident. In this regard, the determination as to the scope of relevancy should be very broad. All signatures, names, and initials appearing in the medical and dental records should be examined, and identification confirmed. These records will be secured under the authority of the Risk Manager to ensure their safety and integrity.

(4) Identifying and safeguarding other evidence will be the responsibility of the Risk Manager to include x-rays, photographs, therapy records, tapes, or records generated as well as results of a review of surgery or specimens, etc. The aforementioned evidence need not accompany the report of investigation. If such items exist, however, this fact should be made a matter of record and the location of these items indicated in that record.

d. Upon completion, the Risk Manager will forward the report of investigation to the DENTAC commander for review for accuracy and completeness in accordance with chapter 2, AR 27-20. The report will then be forwarded to the Judge Advocate POC for a legal review, who will generate two additional copies of the report and furnish these reviewed investigations, by a transmittal letter over his signature to the Chief, U.S. Army Claims Service. The Staff Judge Advocate will ensure that one copy of the completed report of investigation is maintained locally in accordance with AR 25-400-2. The disposition and filing procedures outlined above do not affect the regulatory requirement (AR 40-68) for the handling and disposition of the DA Form 4106.

e. Information that there is a potential for filing a dental malpractice claim can arise in many ways. Generic criteria for recognition of a reportable incident can be found in annex A. The following guidelines may be used to determine when notification of a potentially compensable event should be made.

(1) I.G. complaints.

(2) Patient assistance complaints.

(3) Irrational behavior or overwrought actions by a patient (or relative, friend, etc.) observed within the facility.

(4) Patient interviews by health care providers.

(5) Overheard complaints to other patients or outside parties.

(6) Request for dental records (see paragraph b, Release of Dental Records).

(7) Routine or periodic review of dental records.

(8) Scheduled inspections by higher headquarters.

(9) Peer review committees, professional meetings, conferences, etc.

(10) Apparent appliance or product failure (products liability).

f. When an unusual occurrence or potentially compensable event (PCE) is recognized, the individual identifying the occurrence should complete a DA Form 4106 according to the instructions in Annex B. Any member of the hospital staff is encouraged to identify and report any possible PCEs to the Risk Manager utilizing the DA Form 4106 or a Memorandum for Record.

g. Release of Dental Records.

(1) If a patient (or a parent or other legal guardian of a minor, or other properly designated representative) requests information from his dental record or copies of documents in that record, the request will be processed through the Patient Administrator Officer. In accordance with AR 340-21, this person is the only staff officer who can release information.

(2) When a person receiving a request for dental records has substantial reason to believe that the requestor intends to use the records for the purpose of filing a claim against the Government, the DENTAC Risk Manager and Staff Judge Advocate will be notified prior to release of the records. All such records will be released to the requestor through the Staff Judge Advocate.

(3) Upon notification, the Risk Manager will review the dental record and make a determination (in coordination with the attorney POC) as to the likelihood of a potential claim. If a claim is anticipated, the Risk Manager will cause the requested portion of those records to be duplicated. After compliance with the provisions of AR 40-66 and AR 340-21, the copies may then be authorized by the appropriate records custodian for release to the requestor and the originals retained for action in accordance with paragraph g(1) or (2), above, as appropriate.

h. Army Regulation 40-66, chap 2, governs the confidentiality policy concerning dental records and patient care provider information. IAW AR 40-1, chap 1, the conflict of interest policy is applicable to all individuals involved in QA/UR/RM activities as well as other members of the hospital staff.

i. The Risk Management Plan and program activities will be reviewed annually and documented in the Quality Improvement Committee minutes.

The proponent agency of this publication is the Office of the Commander. Send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Commander, U.S. Army Dental Activity, ATTN: DSBJ-CDR, Fort Huachuca, AZ 85613-7040.

//Original Signed By//

HARLAND G. LEWIS, JR.
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Commanding

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APPENDIX A
GENERIC CRITERIA FOR RISK MANAGEMENT

DIAGNOSIS & TREATMENT ERRORS:

- Incorrect diagnosis
- Delayed diagnosis
- Incorrect non-invasive treatment
- Incorrect invasive treatment
- Complications arising from previous hospitalizations

MEDICATION ERRORS

- Incorrect medication
- Incorrect patient
- Omission of Medication
- Extended delay of medication
- Incorrect dosage
- Medication reaction
- Contraindicated route

PROCEDURAL ERRORS:

- Burns
- Treatment performed incorrectly
- Rx to wrong patient
- RX omitted or delayed
- Scheduling error – omission

IV ERRORS:

- IV fluid overload or underload (determined by physician)
- Incorrect solution
- Contaminated solution
- Severe phlebitis from IV site

PATIENT ACCIDENTS:

- Falls
- Any injury sustained from activity
- Lacerations, bruises, etc.
- Electrical shock/burn

PATIENT INCIDENTS:

- Deviation from dental policy
- Attempted suicide
- Threat of suit

Failure to follow dental staff instructions with resulting injury

MISCELLANEOUS & OTHER:

Visitor incident/accident

Any potential compensable event

PREPARATION OF REPORT OF UNUSUAL OCCURRENCES (DA FORM 4106)

1. Submit all incidents on DA Form 4106 through the clinic OIC to the Risk Manager. Forms should be submitted within 24 hours and forwarded to the DENTAC commander within 48 hours.

2. The top portion of the report should be submitted in duplicate and describe the incident completely. The description should include the following:

- a. When the incident happened (date and time—in military figures).
- b. Where the incident happened (exact location).
- c. Physical status of patient or other person(s) involved (ambulatory, bed rest, alcohol related, etc.).
- d. How the incident happened. Include statement in patient's and/or witnesses' own words, if possible.
- e. State what happened. State exactly what you found, NOT what you think happened, i.e., "Patient found on floor" not "Patient apparently fell."
- f. Note any factors that may have caused or contributed to the incident, i.e., was the floor wet or slippery? Was hallway or sidewalk dark?
- g. State the extent of any injury incurred by the incident.
- h. State what action was taken to prevent and/or correct the situation.
- i. Did the patient/person(s) involved violate any dental/military regulations or normal and expected standards of conduct?

3. The middle section of the report addresses recommended action(s) and should be completed by one of the following:

a. Patient injury/incident: Examining dentist should make a complete statement of patient's physical condition, initiate responses and all orders or recommendations made. Results of examinations/x-rays or tests should be noted and incident should be documented in Progress Notes (SF 603/603A).

b. Immediate supervisor or other responsible persons should answer incidents/occurrences that do not involve patient care or personnel injury.

4. The bottom section of the report addresses action taken and should be completed by the dentist. This section should be completed in accordance with any recommended actions noted in the middle section addressed under para 3 above.

a. Results of patient care incidents should be recorded in patient record in Progress Notes, Chronological Record of Dental Care.*

b. Notation should be made of action/steps taken to prevent the incident from recurring at this facility.

*Document in patient record any evidence of patient injury and actions taken for a patient's well being, but do not state that an incident occurred.